

REMARKS

The present amendment is submitted in response to the Office Action dated December 31, 2003, which set a three-month period for response, making this amendment due by March 31, 2004.

Claims 1-33 are pending in this application.

The drawings and claim 29 were objected to for informalities. Claims 4, 18, 22, and 31 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claim 33 was rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. Claims 1-4, 12, 16-21, 27, and 30 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,498,762 to Eguchi. Claims 1, 2, 16, 18-20, 30 and 33 were rejected under 35 U.S.C. 102(b) as being anticipated by EP Patent No. 374,865 to Escher et al. Claims 1-5, 16-21, and 30-32 stand rejected under 35 U.S.C. 102(b) as being anticipated by WO 99/30352 to Gluck et al. Claims 6, 7, and 14 stand rejected under 35 U.S.C. 102(b) as being anticipated by, or in the alternative, under 35 U.S.C. 103(a) as obvious over Eguchi. Claims 6 and 7 were rejected under 35 U.S.C. 102(b) as being anticipated by, or in the alternative, under 35 U.S.C. 103(a) as obvious over Escher et al. Claims 1-16, 18-23, 27, 28, 30, and 33 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Escher et al in view of U.S. Patent No. 5,766,515 to Jonas et al.

The Applicants note with appreciation the indicated allowability of claims 24-26 and 29, if rewritten in independent form to include the limitations of the base claim and any intervening claims.

The Applicants first wish to note that the pending claims 1-33 have been renumbered as claims 34-66, respectively, in light of the Simultaneous Amendment filed January 14, 2003, in which original claims 1-33 were canceled and 33 new claims were added. This amendment indicates that original claims 1-33 were canceled.

With regard to the objection to the reference cited in the IDS, the Applicants will file a Statement of Relevancy with regard to the noted European patent.

Figure 1 has been amended to add the legend "Prior Art", as requested.

With regard to the formal rejections of the claims under Section 112, pending claims 34-66 also have been canceled. The Applicants have added a new set of claims, which obviates the formal rejections.

It is submitted that new claims 67-72 each define a patentably distinct set of features neither shown nor suggested by the art of record.

New claim 67 includes the features of original claims 1, 2, 8, and 9, but defines, however, that the polymer includes photo-cross-linkable substituents, thus avoiding any "product-by-process" objection. Rather, the photo-cross-linkable substituents are now positively recited features of the layer material. None of the cited references shows or discloses a layer system according to new claim 67 containing photo-cross-linkable substituents.

Because none of the references cited in combination to support the rejection of original claim 9 under Section 103 suggests a layer system containing photo-cross-linkable substituents, new claim 67, which contains these features of original claim 9, cannot be viewed as unpatentable over these reference combinations. The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. *In re Fritch*, 23 USPQ 2d 1780, 1783-84 (Fed. Cir. 1992). On this basis, new claim 67 is patentable over the cited reference combinations.

New claim 68 includes the features of original claims 1 and 12. The Applicants respectfully submit that the Examiner interprets the fact that the alignment layer of Eguchi contains at least two layers and that one of the layers reads on a bonding agent since it bonds the other layer to the electrode. This interpretation is incorrect. A **separate bonding layer** does not correspond to a bonding agent that is contained in the claimed layer.

Because the cited references fail to disclose or suggest at least the above-noted features of claim 68, which includes the features of original claim 12, new claim 68 cannot be seen as being anticipated by or unpatentable over the cited references. Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). Here, as argued above, none of the

references discloses or suggests a separate bonding layer, as define in new claim 68.

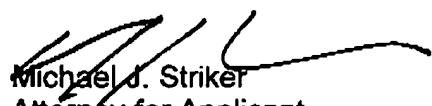
Finally, new claims 69, 70, 71, and 72 are allowable claims 24, 25, 26, and 29, respectively, rewritten in independent form. Therefore, new claims 69-72 are allowable over the art of record.

For the reasons set forth above, the Applicants respectfully submit that new claims 67-72 are patentable over the cited references. The Applicants further request withdrawal of the rejections under 35 U.S.C. 102 and 103 and reconsideration of the claims as herein amended.

In light of the foregoing amendments and arguments in support of patentability, the Applicants respectfully submit that this application stands in condition for allowance. Action to this end is courteously solicited.

Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,



Michael J. Striker
Attorney for Applicant
Reg. No.: 27233
103 East Neck Road
Huntington, New York 11743
631-549-4700